

prescribed by the Secretary, that the requirements of this provision have been satisfied.

(c) Each person processing or causing to be processed lambs or lamb products of that person's own production and marketing such lambs or lamb products, shall pay an assessment on such lambs or lamb products on the live weight of the lamb at the time of slaughter at the rate established in paragraph (e) of this section. In addition, pursuant to §1280.108, such individual would be considered a first handler and would be required by §1280.219 to pay an additional assessment of \$.30 per head. As the first handler, the individual must remit the total amount of assessment to the Board.

(d) A person who is a market agency; i.e. commission merchant, auction market, or livestock market in the business of receiving lambs for sale or commission for or on behalf of a producer, seedstock producer, or feeder shall collect an assessment from the producer, seedstock producer, or feeder and shall pass the collected assessments on to the subsequent purchaser pursuant to this subpart and regulations recommended by the Board and prescribed by the Secretary.

(e) *Rate.* Except as otherwise provided, the rate of assessment shall be one-half of a cent (\$.005 per pound) per pound on all live lambs sold. The rate of assessment may be raised or lowered no more than twenty-hundredths of a cent (\$.002) in any one year. The Board may recommend any change to the Department. Prior to a change in the assessment rate, the Department will provide notice by publishing in the *FEDERAL REGISTER* any proposed changes with interested parties allowed to provide comment.

(f) The collection of assessments pursuant to §1280.217, §1280.218, and §1280.219 shall begin with respect to lambs purchased, or lambs or lamb products marketed on or after the effective date established by the Secretary and shall continue until terminated or suspended by the Secretary.

(g) If the Board is not in place by the date the first assessments are to be collected, the Secretary shall have the authority to receive assessments and invest them on behalf of the Board, and

shall pay such assessments and any interest earned to the Board when it is formed. The Secretary shall have the authority to promulgate rules and regulations concerning assessments and the collection of assessments, if the Board is not in place or is otherwise unable to develop such rules and regulations.

(h) Payment remitted pursuant to this subpart shall be in the form of a negotiable instrument made payable to the Board. Such remittances and the reports specified in §1280.223 and §1280.225 shall be mailed to the location designated by the Board.

§ 1280.218 Exporter.

Each person exporting live lambs shall remit to the Board an assessment on such lambs at the time of export at the rate established in §1280.217(e). An exporter directly exporting his or her own lambs shall remit an assessment to the Board at the rate established in §1280.217(e).

§ 1280.219 First handlers.

Each first handler, in addition to remitting the assessment collected pursuant to §1280.217, shall pay an assessment equal to thirty cents (\$.30) per head of lambs purchased by the first handler for slaughter or slaughtered by such first handler pursuant to a custom slaughter arrangement. The rates of assessment for first handlers shall be increased or decreased proportionately if the assessment paid by producers, seedstock producers, and feeders is increased or decreased. Such assessment shall be remitted with the assessments collected pursuant to §1280.217.

§ 1280.220 Collections.

(a) Each first handler and each exporter responsible for the collection of assessments under this subpart shall remit assessments to the Board by the 15th day of the month following the month in which the lambs were purchased for slaughter or export, as required by regulations recommended by the Board and prescribed by the Secretary, has provided otherwise; or

(b) If a first handler marketed lambs or lamb products directly to consumers, assessments shall be remitted to the Board by the 15th day of the

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month following the month in which the lambs or lamb products were marketed, as required by regulations recommended by the Board and prescribed by the Secretary, has provided otherwise.

(c) *Late payment charges.* Any unpaid assessments due to the Board pursuant to § 1280.217 shall be increased 2 percent each month beginning with the day following the date such assessments were due. Any remaining amount due, which shall include any unpaid charges previously made pursuant to this paragraph, shall be increased at the same rate on the corresponding day of each month thereafter until paid. For the purposes of this paragraph, any assessment determined at a date later than the date prescribed by this subpart, because of a person's failure to timely submit a report to the Board, shall be considered to have been payable by the date it would have been due if the report had been timely filed. The timeliness of a payment to the Board shall be based on the applicable postmark date or the date actually received by the Board, whichever is earlier.

(d) Persons failing to remit total assessments due in a timely manner may also be subject to actions under Federal debt collection procedures.

§ 1280.221 Prohibition on use of funds.

No funds collected by the Board under this subpart shall be used to undertake any action for the purpose of influencing legislation or governmental action or policy, other than recommending to the Secretary amendments to this subpart. A plan or project conducted pursuant to this title shall not make false or misleading claims on behalf of lamb or lamb products or disparage a competing product.

REPORTS, BOOKS, AND RECORDS

§ 1280.222 Books and Records of Board.

The Board shall:

(a) Maintain such books and records, which shall be made available to the Secretary for inspection and audit, as the Secretary may prescribe,

(b) Prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe, and

(c) Account for the receipt and disbursement of all funds entrusted to it. The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

§ 1280.223 Reports.

Each first handler required to remit assessments to the Board for live lambs pursuant to § 1280.217, each first handler marketing lamb products of that person's own production, and each exporter of lambs, shall report to the Board information pursuant to regulations recommended by the Board and prescribed by the Secretary. Such information may include but is not limited to the following:

(a) The number of lambs purchased, initially transferred or which, in any other manner, is subject to the collection of assessment, the total weight in pounds, and the dates of such transactions;

(b) The number of lambs exported; the total weight in pounds of lambs exported;

(c) The amount of assessment remitted;

(d) The basis; if necessary, to show why the remittance is less than the total weight in pounds of lamb multiplied by the assessment rate;

(e) The date any assessment was paid.

§ 1280.224 Periodic evaluation.

Pursuant to the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401), the Board shall, not less often than every 5 years, authorize and fund, from funds otherwise available to the Board, an independent evaluation of the effectiveness of the Order and other programs conducted by the Board. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this paragraph.

§ 1280.225 Books and records of persons.

(a) Each first handler, exporter of lambs, and market agency shall maintain and make available for inspection